IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2029 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

M. C. SHAH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2029 of 1983

MR PV HATHI for Petitioner No. 1

DELETED for Petitioner No. 2

MR AMIT KOTAK A.G.P. for Respondent No. 1-2

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 26/08/2002

ORAL JUDGEMENT

1. Originally this petition was filed by two petitioners namely Mr.M.C. Shah and Smt.S.R. Parekh.

Later on this Court passed order dated 26th July, 1984 on the note filed by Mr.P.V. Hathi learned advocate for the petitioner, that name of petitioner no.2 Smt.S.R. Parekh be deleted from this petition. This petition is, therefore, required to be decided vis-a-vis petitioner no.1 only.

1.1. In this petition, the petitioner has made a grievance that respondents are offering hostile and discriminatory treatment in the matter of promotion and in the matter of applicability of the Departmental Examination Rules known as Gujarat Directorate of Languages (Departmental Examination) Rules, 1975 ("the rules" for short). He has also made grievance that he was required to be exempted from appearing and passing the examination as it was done in cases of other similarly situated employees. The respondents had not allowed him the benefit of the said exemption though he had reached the age of 45 years. The reliefs claimed by the petitioner are in relation to the aforesaid grievances only.

2. The relevant facts in short can be stated as under :-

2.1. The petitioner was appointed as Translator on 10th March, 1967 in the office of the Directorate of Languages which was created after 1st May, 1960. It is the say of the petitioner that the Directorate of Languages comprises of two branches namely Administrative staff and Translators wing. The latter again consisted of Supervisor, Senior Translator and Junior Translator. Later on, the two cadres of Translators were merged into a single cadre of Translator in consonance with recommendations of Desai Pay Commission with effect from 1st January, 1973. It is the say of the petitioner that in the year 1975 examination rules were framed for the Administrative staff comprising Junior Clerks, Senior Clerks etc., as well as for Translators and Supervisors on the Translation side. However, those rules were not brought into effect immediately as they were found not viable. These rules came to be revised in the year 1982. The Translators were required to appear in this examination on 18th November, 1982. The petitioner made a representation requesting the concern authorities for exempting him from appearing in the examination as he had reached the age of 45 years. This representation was however, turned down vide Government Order dated 28th January, 1983. It is the say of the petitioner that amendment was brought about in the rules in March, 1984 and it was to have retrospective effect and by such

amendment exemption was granted to the persons who had reached the age of 45 years on the date of the introduction of the rules i.e. 15th May, 1975. In this background of the facts, the petitioner seems to have approached this Court claiming the reliefs which have been setout in para 12 of this petition.

3. In response to the petition, the other side has filed affidavit-in-reply. One Mr.L.K. Rohit, the Deputy Director of Languages, Gujarat State has filed further affidavit-in-reply dated 6th September, 2001. In paragraph 4 of that affidavit the deponent has stated as under :-

> "I state and submit that petitioner had already retired on 30.9.1991. The copy of the office order dated 30.9.1991 for retirement of petitioner is annexed hereto and marked as Annexure 'A'-III to this affidavit."

3.1 The said order at annexure-A-III, if perused it shows that it is dated 30th September, 1991 and it is issued by the office of Directorate of Languages, State of Gujarat, Gandhinagar. It states that Shri Manubhai Chimanlal Shah working in the said office upon reaching the age of superannuation on 30th September, 1991 is granted permission to retire after office hours (A.O.H.) on 30th September, 1991. Thus, from the contents of the aforesaid affidavit and the said order, it is clear that the petitioner has now retired from service. The reliefs which have been sought for in this petition are in relation to the aforesaid examination only and nothing beyond that. Considering the nature of reliefs that have been sought in this petition, it clearly appears that the same cannot be granted considering the fact that the petitioner is now no more in the service of the respondents. In other words, this petition appears to have become infructuous. In view thereof, this petition is dimissed. Rule is discharged with no order as to costs.

[AKSHAY H. METHA, J.]

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